IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 9826 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAMESH HIRANAND MAKHIJANI

Versus

SHEETAL RAMESH MAKHIJANI

Appearance:

1. Criminal Misc.Application No. 9826 of 2001

MR RD DAVE for Petitioner No. 1-5

MR SP HASURKAR for Respondent No. 1

Mr V M Pancholi, APP for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 12/04/2002

ORAL JUDGEMENT

Learned Advocates for the parties are present.

It is the contention of the learned Advocate for the

petitioner that though the facts in question show that the alleged offence has been committed at Mumbai, the respondent has shown in the complaint that it has been committed at Vadodara and the FIR has also been filed in Vadodara for offence punishable under Section 498-A of IPC along with other offences. It is also further submitted that without considering this aspect of the case, the complaint has been filed and process has been issued by the concerned Magistrate which is not permissible as held by the learned Single Judge of this Court in the case of Upendrasingh Achalsingh Rajput & Ors. v. State of Gujarat, reported in 1997 (1) GlR 504.

2. However, it is found proper that the present petitioner may submit appropriate application before the court concerned for agitating the aforesaid issue and if such an application is made, then certainly the learned Magistrate will consider and decide the said application in accordance with law.

3. With these observations and directions, this petition is disposed of. Interim relief granted earlier stands vacated. Notice discharged. Learned advocate for the petitioner will be required to submit such an application within a period of one month and if such an application is submitted as aforesaid, then, the learned Magistrate will not proceed with the trial till the disposal of the aforesaid application. Direct Service is permitted.

12.4.2002 [D P Buch, J]
msp